

**HASNUL BIN ABDUL HADI v.
BULAT BIN MOHAMED & ANOR.**

[O.C.J. (Ibrahim J.) February 4, 1977]

[Malacca — Civil Suit No. 33 of 1968]

*Libel and Slander — Fair comment — Qualified privilege
— Calling a man "Abu Jahal" — Justification.*

This was a claim for damages for libel contained in the issue of the *Utusan Melayu* dated April 29, 1964 at page 10 column 5 with the heading "FOUR REASONS WHY THE SOCIALIST FRONT WAS CONDEMNED IN MALACCA." The translation of the relevant portion of the defamatory publication was as follows:—

"Third, the citizens in the town whether they are Malays or Chinese look at Hasnul as 'Abu Jahal' because of his very big lies."

Held: (1) to call a man a liar, "Abu Jahal", is defamatory and publication of the words "Abu Jahal" is actionable *per se*. The plaintiff need not prove that he had suffered any resulting damage;

(2) statements made on a subject matter in which both the defendant and the persons to whom the statements are made have had legitimate common interest come under one of the classes of statement published on an occasion of qualified privilege but since the publication was made after the elections the occasion was no longer privileged; the onus of proving that the facts on which the comment is founded are true is on the defendant.

Cases referred to:—

- (1) *Dickeson v. Hilliard* L.R. 9 Ex. 79.
- (2) *Horrocks v. Lowe* [1974] 1 All E.R. 662, 669.
- (3) *London Artists Ltd. v. Littler* [1969] 2 Q.B. 375, 391.
- (4) *Syed Husin Ali v. Sharikat Penchetakan Utusan Melayu Bhd. & Anor.* [1973] 2 M.L.J. 56.
- (5) *Yap Bor Lim v. Chia Thye Poh & Anor.* [1965] 2 M.L.J. 123.
- (6) *Cassell & Co. Ltd. v. Broome & Anor.* [1972] 1 All E.R. 801, 824.
- (7) *Uren v. John Fairfax & Sons Pty. Ltd.* (1967) 117 C.L.R. 118, 150.

CIVIL SUIT.

Lim Kean Chye (A.L. Taye with him) for the plaintiff.

Chin Yew Meng (*Nasir bin Khalid* with him) for the 1st defendant.

Bhag Singh for the 2nd defendant.

Ibrahim J.: Plaintiff's claim in this action is for damages for libel contained in the issue of the *Utusan Melayu* dated the 29th day of April, 1964 at page 10 column 5 with the heading "FOUR REASONS WHY THE SOCIALIST FRONT WAS CONDEMNED IN MALACCA". Para. 4 of the Statement of Claim reads as follows:

"On the 29th day of April, 1964 the first defendant falsely and maliciously published or caused to be published in the *Utusan Melayu* of and concerning the plaintiff a highly and gross defamatory statement. The second defendants falsely and maliciously printed and published or caused to be printed and published of and concerning the plaintiff the said defamatory publication."

The agreed English translation of the relevant portion of the defamatory publication is as follows:—

"Third, the citizens in the town whether they are Malays or Chinese look at Hasnul as 'Abu Jahal' because of his very big lies."

Paras. 7, 8, 9 & 10 of the Statement of Claim read as follows:—

A "7. The expression and words as stated in paragraph 6 herein taken in their natural and ordinary meaning, are highly and grossly defamatory of the plaintiff. The description of the plaintiff as 'Abu Jahal' because of his big lies is libellous *per se*."

8. The said words in their natural and ordinary meaning meant and were understood to mean:—

(a) That the plaintiff was a very big liar.

B (b) That the plaintiff was no different from 'Abu Jahal' which name connotes and ascribes the most detestable, abominable and repulsive qualities to a person such as the plaintiff professing the Islamic faith.

(c) That the plaintiff was not a fit and proper person to be a member of the Malay community or to associate with other people.

(d) That the plaintiff was an irresponsible person.

C 9. In the alternative by reason of the facts hereinafter particularised the said defamatory words referred to in paragraph 6 herein meant and were understood to mean that the plaintiff was a very big liar, trouble-maker and an enemy of Islam.

PARTICULARS

(a) The name 'Abu Jahal' is an expression commonly used and understood by Muslims all over the world to describe a person who is an enemy of Islam, an infidel, a trouble-maker and a liar.

D (b) Abu Jahal was one of the nine chief enemies of Prophet Mohamed. The use and meaning of the expression 'Abu Jahal' in the context of the publication referred to herein would be known to most of the readers of the *Utusan Melayu*.

E 10. The plaintiff has in consequence been seriously impaired in his character, credit and reputation and has been brought into public scandal, odium, contempt and has also suffered great distress, humiliation and damage."

F Defendants aver that the words used were not actionable *per se*. They deny that they bore or were understood to bear or were capable of bearing a defamatory meaning or being understood to bear any of the meanings alleged in paras. 8 and 9 of the Statement of Claim.

Paras. 4, 93 and 94 of *Gatley on Libel and Slander*, 7th edition, deal with what is defamatory, natural and ordinary meaning of words and legal innuendoes respectively and they read as follows:—

G "4. *What is defamatory.* There is no wholly satisfactory definition of a defamatory imputation. Any imputation which may tend 'to lower the plaintiff in the estimation of right-thinking members of society generally,' 'to cut him off from society,' or 'to expose him to hatred, contempt or ridicule,' is defamatory of him. An imputation may be defamatory whether or not it is believed by those to whom it is published"

H "93. *Natural and ordinary meaning.* Words are normally construed in their natural and ordinary meaning, i.e. in the meaning in which reasonable men of ordinary intelligence, with the ordinary man's general knowledge and experience of worldly affairs, would be likely to understand them. The natural and ordinary meaning may also 'include any implication or inference which a reasonable reader guided not by any special but only by general knowledge and not fettered by any strict legal rules of construction would draw from the words'. The words are not to be construed in a milder sense (*mitiori sensu*) merely because they are capable on some forced construction of being interpreted in an innocent sense.

I "94. *Legal innuendoes.* However, words may convey a defamatory imputation only by reason of some special knowledge available to those to whom they were published, of the circumstances of publication, or of some special meaning or inference to be attached to or drawn from the words. The words are then said to carry an innuendo. In such a case the question is what meaning would be attached to the words by a reasonable man having special knowledge of any relevant facts or meanings."

Plaintiff (PW1) said that "Abu Jahal" signified an enemy of Islam and of God and he called Haji Abdul Rahim bin Abu Kassim (PW2) a religious teacher and noja of Pengkalan Rama mosque to establish that the description of him as "Abu Jahal" was meant and understood to mean that he was all those stated in paras. 8 and 9 of the Statement of Claim. Defendants called Haji Dusuki bin Haji Ahmad (DW1) who was the Ketua Bahagian Penyelidikan Islam and acting Secretary of Yayasan Daawa Islamiah Malaysia, and Khalid bin Mohamed Hussain (DW6) who was in charge of the dictionary section of Dewan Bahasa dan Pustaka in support of their contention that "Abu Jahal" did not bear or carry the meanings stated in the said paras. 8 and 9.

Much has been said about "Abu Jahal". It is established that "Abu Jahal" was the nickname given to a person named Amru bin Hisham who was one of the chief enemies (musoh utama) of Prophet Mohamed. "Abu" means father and "Jahal" means stupid (or ignorant). Looked at purely from the historical angle "Abu Jahal" may bear or carry most if not all the meanings stated in paras. 8 and 9 of the Statement of Claim. PW2 however agreed with both DW1 and DW6 when he said that the meaning of "Abu Jahal" has changed through time and usage. DW1 said that "Abu Jahal" has become an expression or idiom and DW6 said that "words, especially those borrowed from another language, often change their meanings as time went on." To illustrate the point he referred to the word "khalwat" which meant deep meditation and communication with God, a very revered state of affairs. However it now signifies being in close proximity with a member of the opposite sex, not being married, which is not only a highly immoral conduct but also a criminal offence. PW2 also accepted the definition of "Abu Jahal" in the two dictionaries *Ungkapan Lanjut* and *Kamus Simpul Bahasa* which is "orang yang suka menghalangi usaha yang baik" (a person who likes to oppose or disrupt the good things being done).

It has been held defamatory to publish of a man that he is a liar (see para. 50 of *Gayley*) and a defamatory imputation can be conveyed by a comparison of a person's character and transactions with those of any treacherous, disgusting, odious, disreputable or contemptible person, e.g., to liken a man to Judas (see para. 104 of *Gayley*). Even the two dictionaries do not give a good meaning of "Abu Jahal" and I agree with DW1 when he said that "Abu Jahal" may be used to denote a Muslim who has one of the qualities, character and attitudes of Amru bin Hisham, e.g., a person who tells lies and that "one of the ways of disrupting the good work of another would be by telling lies against him." I am therefore of the view that the words used were defamatory of plaintiff though not to the extent imputed by him. As the description of plaintiff as "Abu Jahal" was qualified by the reason that it was on account of his very big lies it would appear to me that the words used were likely to be understood by the ordinary right-thinking and reasonable Malay of ordinary intelligence with the ordinary man's general knowledge of the Islamic religion and experience of wordly affairs to mean that plaintiff was a very big liar and an irresponsible

A person just as "Abu Jahal" was and not that plaintiff had all the detestable qualities of "Abu Jahal". As the publication is admitted the words used are actionable *per se*. Plaintiff need not prove that he has suffered any resulting damage for such damage is presumed (see para. 143 of *Gayley*).

B DW1 has said that "Abu Jahal" had been used jokingly. This may or may not be true but in the present case 1st defendant (DW3) himself has said that he did not use it or intended it to mean as a joke.

Other common defences raised by both defendants are:—

- C (1) Justification;
(2) Qualified privilege; and
(3) Fair comment.

In respect of the defence of justification para. 4(ii) of 1st defendant's Re-Amended Defence and para. 7A of 2nd defendants' Amended Defence which are identical read as follows:—

D "In the alternative if the words complained of are defamatory (which is not admitted) the first defendant avers that the said words are true in substance and in fact.

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- E (a) On the 5th day of April, 1964 the plaintiff falsely and maliciously accused the Alliance Party of having offered him \$100,000 to refrain from contesting the election at that time against the then Finance Minister Tun Tan Siew Sin;
(b) The plaintiff also on the said date said that Tun Tan Siew Sin had since owned 38,000 acres of rubber land and big bungalows available for rent in Penang, Kuala Lumpur and Malacca therefore implying that the said Tun Tan Siew Sin had acquired his wealth by corrupt means;
(c) The plaintiff also on the said date falsely and maliciously accused Tun Tan Siew Sin of only working for his own interest and that of his family thereby implying that he was corrupted;
(d) The plaintiff also on the said date falsely and maliciously accused the Alliance Councillors for having neglected their duties and further accused them of cowardice for having gone elsewhere to contest;
(e) The plaintiff also on the said date falsely and maliciously vigorously attacked other leaders of the Alliance Party."

G It is a complete defence to an action of libel or slander that the defamatory imputation is true. Such a defence is called a plea of justification (see para. 351 of *Gayley*). To establish it defendant must prove that the defamatory imputation is true (see para. 352 of *Gayley*).

H The plea of justification in this action is grounded on a speech allegedly made by plaintiff on April 5, 1964 at Ayer Molek as reported at page 10 of *Utusan Melayu* dated April 7, 1964 (photostat copy D11 — see pages 5 and 6 of "A"). The report was sent by the *Utusan Melayu's* reporter at Melaka, Haji Endut bin Haji Md. Ali (DW5). DW5 however did not attend the rally. He got the materials from which he made up the report from a friend named Mahmood bin Latiff (DW7) who was a part-time reporter for *Berita Harian* at his office in Bangunan Hang Tuah on April 6, 1964. At first DW7 read out what he had written in his note-book and after that he looked at it himself. As he could not make out what DW7 had written he asked him to read it again and he

noted down the important points. He then wrote out the news report and read out and showed it to DW7 who said that it was all correct. After that he sent it to *Utusan Melayu*, Kuala Lumpur. It was published on the following day. What was published was the same as he had reported. DW7 also read it and he did not make any comments on it. It was normal practice for reporters to exchange information.

DW7 substantiated DW5 as to what transpired between them which resulted in DW5 sending his report to *Utusan Melayu*. He also said that when he arrived at the rally it had just started. The Chairman of the rally, Sohod bin Haji Abdul Salam, was speaking. The next speaker was a retired school teacher Cikgu Abdul Aziz who was a candidate for Kangar State constituency and plaintiff spoke after him. He took down notes of plaintiff's speech (D9, translation D9T) in a note-book (D12). He did not take down all that he said. He recorded only what he thought was important and left out words which he could remember easily. He prepared a report on plaintiff's speech the next morning and sent it to *Berita Harian* but it was not published. He also passed the information to DW5 the same morning.

When cross-examined he said that D9 was written on pages 2 to 4 of D12. He had also written something on page 1 (D9X) which he had also read to DW5. It was headed Md. Dan and contained his speech. He denied that page 2 was a continuation of Md. Dan's speech. He did not record Cikgu Aziz's speech and though he had at page 4 recorded Hasnul before Cikgu Aziz as speaker that did not mean that Hasnul spoke before Cikgu Aziz. Page 5 of the note-book is headed *Tan Siew Sin* and it and the 3 pages following it contained his speech. The next page was headed *Aziz Ishak* and it and the 3 following pages contained his speech. Page 27 was headed *Hasnul* and rest of his speech continued on page 28 and a few lines on page 29. The rest of page 29 was headed *K. Menteri* and it and the 2 following pages contained his speech. He did not agree if there was no break with new heading one would have thought that the whole page contained *Hasnul's* speech. Page 18 was headed *Ghafar* and in the middle of page 21 there was the word *Tan* and that showed where Ghafar finished and Tan began. Only page 27 is headed *Hasnul* and he agreed that on the face of it there was only one speech by Hasnul which he recorded.

Defendants also called Hj. Dollah bin Ngah (DW2), a settler at the Bukit Katil Land Scheme, who said that he attended plaintiff's rally at Pekan Ayer Molek in 1964 where he heard plaintiff say that the Alliance had offered him \$100,000 so as not to stand against Tun Tan Siew Sin, that since Tun Tan had become Finance Minister he had acquired property in Penang, Kuala Lumpur and Melaka and that Tun Tan had 38,000 acres of rubber land. When he arrived at about 9 p.m. the rally had started. He remained there for less than half an hour and when he left plaintiff was still speaking.

Plaintiff has denied that he has made those allegations. According to him the rally started at 8.30

A p.m. and he spoke for about 1½ hours from about 10 p.m. after the other speakers had addressed the rally. There was a crowd of about 500 persons present. He did not see DW7 or any other reporter at the rally. After reading the report in the *Utusan Melayu* on April 7, 1964 he asked DW5 to come to his office and told him that he did not say those words and that what he said was that the Minister was born rich while he himself was a poor man. DW5 recorded that he told him in one or two pages of his note-book as a result of which the last paragraph at page 10 of the *Utusan Melayu* dated April 10, 1964 was published and its translation is "Meanwhile Encik Hasnul has denied that he made such allegation. He said he was only making comparison between the minister's wealth and his own." (see page 13 of "A").

On the evidence before me I find that defendants have not proved that plaintiff had made those allegations the onus of which is on them. They rely on D9 but plaintiff's name is not written on the top of page 2 and this is contrary to DW7's practice as can be seen in D12 where a speaker's name has invariably been written on the top of the beginning of what that speaker is recorded to have said. It is significant that none of the counsels for defendants has touched on this particular aspect of D9 and D12 as a whole. DW7 has said that he was seated on a bench about 15' to the rear of the speaker's platform after arriving there at about 8.20 p.m. but he was not even sure how many persons attended the rally. Page 4 of D9 shows that he had originally written 100 persons but he had subsequently cancelled and replaced it with 50. Plaintiff said that about 500 persons attended the rally. Again it was only after he had been confronted with page 1 (D9X) that he said that Mohd. Dan was also a speaker at the rally and that he spoke after the Chairman had spoken. In his examination in chief he said that it was Cikgu Aziz who spoke next after the Chairman. I am therefore not satisfied that the whole of D9 contains the notes of what plaintiff alone had said. I am not sure that it does not also contain what Mohd. Dan and/or Cikgu Aziz had also said. Even assuming that it was plaintiff who had referred to Tun Tan's rubber estate and bungalows I consider it unlikely that he had used the words "since he became Finance Minister" as that would have watered down the effect of the other allegations. The majority of the audience must have known that Tun Tan was a wealthy man before he became Finance Minister and I consider it probable that plaintiff was "only making comparison between the minister's wealth and his own." The word "since" does not appear at all in D9.

As to DW2 he has not impressed me as a reliable witness. He has said that 1st defendant had asked him to give evidence only about a week earlier when 1st defendant told him that he was sued by plaintiff for calling him "Abu Jahal". He thought that he would be asked only about "Abu Jahal" and he only knew that he would be asked about the Ayer Molek rally when he was asked about it in the witness box, yet he was able to tell the court that he heard plaintiff say about the offer of \$100,000 made by the Alliance to plaintiff and Tun Tan having acquired bungalows and rubber land since he became Finance Minister.

He could not remember what else plaintiff said before or after he made those allegations. He said that he had gone to the rally with Tawi (who gave evidence in July 1967 in Tun Tan Siew Sin's case against plaintiff and who has since died) but he also said that he had not gone to the court to give evidence in that case.

The defence of qualified privilege is raised in para. 8 of both the defendants' defences, Further And Better Particulars of which read as follows:—

"At all material times in 1964 the country was having a general election. The plaintiff was a member of the Socialist Front and a candidate for the election. The first defendant was and is a member of the U.M.N.O. and was then an official of the said organisation having charge of the election.

The plaintiff was then the Municipal President of the Melaka Municipality and has been holding the said post for quite some time before the said election. The plaintiff's party was also contesting the State and Federal seats in various parts of Melaka and Malaysia.

The country and in particular the people of Melaka had an interest to know why the Socialist Front was defeated in the said election.

The said words were published with a view to giving the country and in particular the people of Melaka information on a matter of public interest. The first defendant and the country and in particular the people of Melaka had a common and corresponding interest in the publication of the said words."

On defence of qualified privilege para. 441 of *Galley* reads as follows:—

"441. *Introductory.* There are occasions upon which, on grounds of public policy and convenience, a person may, without incurring legal liability, make statements about another which are derogatory and in fact untrue. On such occasions a man, stating what he believes to be the truth about another, is protected in so doing, provided he makes the statement honestly and without any indirect or improper motive. These occasions are called occasions of qualified privilege, for the protection which the law, on grounds of public policy, affords is not absolute but depends on the honesty of purpose with which the derogatory statement is made. The rule being founded on the general welfare of society, new occasions for its application will necessarily arise with continually changing conditions."

Statements made on a subject matter in which both the defendant and the persons to whom the statements are made have had legitimate common interest come under one of the classes of statements published on an occasion of qualified privilege (see para. 442(2) of *Galley*) but since the publication in this case was made after the elections were over the occasion was no longer privileged. The authority for this is *Dickeson v. Hilliard*⁽¹⁾ the head-note of which reads as follows:—

"F. and B. were candidates at a parliamentary election. The defendants were agents of B., and on the day of the election, whilst the poll was proceeding, one of them wrote to the agent of F., stating that bribery on F's behalf was going on. B. was returned, and on the next day the plaintiff's name was mentioned by the same defendant to F's agent as that of a briber. A discussion upon the imputation ensued, which resulted in the defendants transmitting to F's agent on the day following a document signed by both of them 'certifying' that the plaintiff had been personally guilty of bribery.

In the action of defamation brought upon this document: Held that the occasion was not privileged."

On the assumption that the occasion was privileged the defendants have failed to survive the test of 'honest belief' laid down by Lord Diplock in *Horrocks v. Lowe*⁽²⁾ when at page 669 His Lordship said:—

"Apart from those exceptional cases, what is required on the part of the defamer to entitle him to the protection of the privilege is positive belief in the truth of what he published or, as it is generally though tautologously termed, 'honest belief'. If he publishes untrue derogatory matter recklessly, without considering or caring whether it be true or not, he is in this, as in other branches of the law, treated as if he knew it to be false. But indifference to the truth of what he publishes is not to be equated with carelessness, impulsiveness or irrationality in arriving at a positive belief that it is true..."

Both defendants knew of the denial made by the plaintiff, yet they caused the derogatory words to be published. The most damaging admission 1st defendant made was when he said that he had not made up his mind if plaintiff had actually made the allegations or not when they were published on April 7, 1964 (see page 5 of "A") and in my view his contention that he made up his mind that the plaintiff had made those allegations when plaintiff did not accept his challenge to substantiate them which was published in the *Utusan Melayu* dated April 11, 1964 (see page 14 of "A") is unreasonable. As the plaintiff had denied that he had made those allegations there was no reason at all for him to expect that the plaintiff would accept his challenge. 2nd defendants did not even bother to ask DW5 to verify his report after plaintiff had made his denial. Had they done so they would have found out that DW5 himself had not attended the rally and that DW7 who had supplied the information to DW5 had also sent his report to his newspaper *Berita Harian* and that that newspaper had not published DW7's report.

The defence of fair comment is raised in para. 9 of both defendants' defences, Further and Better Particulars of which read as follows:—

"The first defendant repeats the particulars under paragraph 8 above. The defendant was commenting on the general elections and the results thereof. During the Municipal Election for the Town of Melaka the plaintiff stood as a candidate and was returned and as his party won the majority of the seats contested he was made the President of the Municipality. During the said election the plaintiff and his party made a lot of promises which were never fulfilled either by him or his party during his term of office.

During the election of 1964 the plaintiff's party of which he was and is an official was pro-Indonesian in spite of its confrontation against Malaysia and the plaintiff attended the preparatory meeting of the non-aligned countries at Cairo and on his return made speeches which were anti-Malaysia.

The plaintiff was at one time a member of UMNO and was elected to the State Legislative Assembly but sometime in 1958 he left UMNO and joined Party Raayat.

As the plaintiff claims to be a prominent and well-known politician and since he lost both the seats he contested in spite of the fact that he was the Municipal President and that his party was controlling the Municipality it became a matter of public interest to comment on why the electorates rejected him and his party in the general elections."

Para. 701 of *Galley* deals with the general principles of fair comment and it reads as follows:—

"701. *General principles.* It is a defence to an action for libel or slander that the words complained of are fair comment on a matter of public interest. This defence is available to every one of Her Majesty's subjects. The right of comment on a matter of public interest is not the peculiar privilege of the Press. 'A newspaper has the right, and no greater or higher right, to make a comment upon a public officer or person occupying a public situation than an ordinary citizen would have.' To whatever lengths the subject in general may go, so also may the journalist, but, apart from statute law, his privilege is no other and no higher..."

the range of his assertions, his criticism, or his comments, is as wide as, and no wider than, that of every other subject. No privilege attached to his position."

As I have already found that defendants have not proved that plaintiff had made those allegations on which the defamatory words were founded there is no substance in this defence. As stated in para. 702 of *Gatley* "the defendant must prove that the facts on which the comment is founded are true." and in *London Artists Ltd. v. Littler*⁽³⁾ Lord Denning at page 391 said:—

"...In order to be fair the commentator must get his basic facts right."

Evidence was given of certain promises made by plaintiff during the campaign for the Municipal Elections to establish that plaintiff was a very big liar. Plaintiff has denied that he has made those promises and even if he did I do not consider it "fair comment" to brand him as a very big liar merely because he failed to fulfil some of his election promises.

There is another defence raised by 1st defendant in para. 3(iii) which reads as follows:—

"The first defendants avers that the words complained of were words of heat or vulgar abuse and were intended to be understood as such."

This defence however has not been referred to in 1st defendant's submission apparently because it is not a defence in an action for libel though it is one in an action for slander (see para. 341 2(d) of *Gatley*).

I therefore find that both defendants had libelled plaintiff.

As to the damages it would appear that there need only be one judgment against both defendants for the total damages to be awarded (see para. 1370 of *Gatley*).

Plaintiff has asked for substantial damages while defendants have submitted that nominal damages would be sufficient in this case. The nearest case which would be of assistance to me in assessing the quantum of damages is that of *Syed Husin Ali v. Sharikat Perchetakan Utusan Melayu Berhad & Anor.*⁽⁴⁾ where the plaintiff who was at the material time a lecturer at the University of Malaya and a member of Party Rakyat was awarded \$6,500 damages for having been ascribed as dishonest, disloyal to the Government of Malaysia, a subversive element, an irresponsible politician, ungrateful person, a supporter of President Sukarno and an instigator of unrest in the country. Plaintiff in this case was at the material time a top man of Party Rakyat and elected President of the Melaka Municipality but the defamatory imputation that he was a very big liar and an irresponsible person just as "Abu Jahal" was in my view less severe than those ascribed to plaintiff in the case referred to above.

It is established that 1st defendant was the UMNO Supervisor of Elections in 1964 which had just been held when the defamatory words were published and that 2nd defendants were strong supporters of UMNO with several prominent UMNO members on their Board of Directors. It could therefore be said that those defamatory words were published to discredit

A a political opponent and as in *Yap Bor Lim v. Chia Thye Poh & Anor.*⁽⁵⁾ it could not be held that nominal damages would suffice. Though plaintiff had not won any State or Parliamentary elections which he had on several occasions contested he was then the elected President of the Melaka Municipality. Much has been said by plaintiff's counsel on the conduct of defendants for purpose of assessing the damages but it must be borne in mind that plaintiff had commenced this action only on February 28, 1968, after Tun Tan Siew Sin had withdrawn his case against him. In *Cassell & Co. Ltd. v. Broome & Anor.*⁽⁶⁾ at page 824 Lord Hailsham, quoting Windeyer J. in *Uren v. John Fairfax & Sons Pty. Ltd.*⁽⁷⁾ at page 150 said as follows:—

C "It seems to me that, properly speaking, a man defamed does not get compensation for his damaged reputation. He gets damages because he was publicly defamed. For this reason, compensation by damages operates in two ways, — as a vindication of the plaintiff to the public and as consolation to him for a wrong done. Compensation is here a solatium rather than a monetary recompense for harm measurable in money."

D Having regard to all the circumstances of this case I am of the view that damages in the sum of \$10,000 would be fair and adequate to vindicate plaintiff to the public and console him for the wrong done. I accordingly give judgment for plaintiff in the sum of \$10,000 and costs. Certificate for two counsel is to issue.

E *Judgment for the plaintiff.*

Solicitors: *Mah-Kok & Taye; Allen & Gledhill; Ariffin & Ooi.*

PUBLIC PROSECUTOR v. GEORGE ABRAHAM

[A.Cr.J. (Syed Agil Barakbah J.) February 14, 1977]
[Alor Star — Kedah Criminal Trial No. 14 of 1976]

Internal Security — Starting pistol — Whether "fire-arm"
— *Internal Security Act 1690, s. 57(1).*

G The accused in this case was charged for having under his control one starting pistol without lawful authority in a security area, i.e. at an Army Store in Sungai Patani, an offence under section 57(1)(a) of the Internal Security Act and punishable under section 57(1) of the same Act.

H **Held:** it was not the intention of Parliament to stretch the definition of "fire-arm" so wide as to embrace any component parts of an object resembling a firearm unless they were component parts of an ordinary firearm or if otherwise parts of an object which could be adapted without any difficulty by any ordinary intelligent person, into a barrelled weapon. Section 2 must be construed by the context and circumstances in which it was written so as to give it a plain and unambiguous meaning. To construct it otherwise would tend to turn law-abiding subjects into law-breakers, an undesirable situation which departs from the real intention of the legislature.

Cases referred to:—

- (1) *Thurtell & Hunt* (1824) Notable British Trials, pages 144-145.
- (2) *Sia Soon Suan v. Public Prosecutor* [1966] 1 M.L.J. 116.
- (3) *Lim Eng Kooi v. Public Prosecutor* [1948-49] M.L.J. Supp. 63.
- (4) *Ismail bin Haji Ibrahim v. Public Prosecutor* [1949] M.L.J. 139 C.A.
- (5) *R. v. Freeman* [1970] 2 All E.R. 413.
- (6) *Cafferata v. Wilson* [1936] 3 All E.R. 149.